REMARKS/ARGUMENTS

The Office Action mailed August 26, 2005 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Independent claims 9, 14, 16, and 24 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found e.g. at Figure 1 and Figure 2 and page 6, line 24 in the specification. No new matter has been added. Also, new dependent claims 31-42 have been added. Support for these changes may be found e.g. at Figure 1 and Figure 2 and page 6, line 24 in the specification. No new matter has been added.

The First 35 U.S.C. § 102 Rejection

In paragraph 4 of the Office Action Claims 9-18 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Williams (1,031,033) This rejection is respectfully traversed.

According to M.P.E.P. § 2131, a claim is anticipated under 35 U.S.C. § 102 (b) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

The Applicant has amended independent Claims 9, 14 and 16 to recite that said flexible enclosure includes an opening formed in said enclosure and closure means connects to said enclosure so that said closure means can be engaged to close said opening.

On the other hand, Williams does not teach or suggest this feature of Applicant's claims. Rather, Williams includes an opening at the top of his device, and the opening is not provided with any closure means. On the contrary, Williams provides a "spreader" for holding the bag open. (Lines 61-65) Accordingly, Williams does not anticipate Applicant's claimed invention.

As to dependent claims 10-13, 15, and 17-23, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

Turning to new dependent claims 31-39, those claims as well are dependent from allowable independent claims and are thus likewise allowable.

The Second 35 U.S.C. § 102 Rejection

In paragraph 5 of the Office Action Claims 9-21 and 23-30 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Schmidt (5,277,449) This rejection is respectfully traversed.

The Applicant has amended independent Claims 9, 14, 16, and 24 to recite that the external rigid support member fits only over substantially a quadrant of the flexible enclosure so that the remaining substantially three quadrants of the flexible enclosure are not enclosed by a support member.

In contrast, in Schmidt his half-shells 1 and 2 fit over practically all of his container 50.

As to dependent claims 10-13, 15, 17-23, and 25-30 the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

Turning to new dependent claims 31-42 those claims as well are dependent from allowable independent claims and are thus likewise allowable. Moreover, Claims 31-32, 34-35, 37-38, and 40-41 are clearly distinguishable over Schmidt for an additional reason. Specifically, according to those Claims there is an opening along one of the sides of the flexible enclosure. In contrast, it would not be reasonable to have an opening along one side of Schmidt's container 50 because the opening would be blocked by his half-shell 1 or 2.

The 35 U.S.C. § 103 Rejection

In paragraph 7 of the Office Action Claim 22 was rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Schmidt (5,277,449) in view of Rekuc et al. (5,743,363). This rejection is respectfully traversed.

Claim 22 is dependent from Claim 16 which has been amended. As discussed above, Claim 16 as amended is considerably different from the Schmidt reference, and the combination of Schmidt with the Rekuc et al. reference does teach or suggest all of the elements of claim 22. Accordingly Claim 22 should be patentable.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST, LLP

Dated: 24 Feb. 2006

Robert E. Krebs,
Reg. No. 25,886

Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Tel. (408) 292-5800
Fax. (408) 287-8040